CHAPTER 4

Complaint Handling

4.1 This has been a record year. My Office received 3,736 complaints over 10½ months in 2001/02. This compares with 3,709 and 3,101 for a full year in 2000/01 and 1999/2000. (see paragraphs 5.1 and 5.2)

In-coming Complaints

4.2 Most complaints come in by post. My counter staff receive complainants who visit the Office in person. If appropriate, my duty officers will interview them and take down details of their cases direct. Since 2000, we have accepted complaints via e-mail and since late March 2001, by telephone. However, in the case of e-mail, complainants must provide their correspondence address to which we will direct all future exchanges, to safeguard the security of their information.

Fig.4.1 **Mode of lodging complaints**

In person	260
In writing -	
by complaint forms	828
by letters	1,116
By phone	508
By e-mail	360
By fax	664
Total	**3,736**

Assessment

4.3 My assessment team, with my counter staff and duty officers, is the front-line for my Office. Members vet all in-coming complaints and enquiries. Where a matter falls outside my purview or is subject to restrictions under the Ordinance, complainants will be notified within 15 working days. Where possible, we will advise them where and how they may seek redress.

4.4 Complaints within my purview are screened in for action by the appropriate investigation team.

4.5 To determine whether to undertake an investigation, we conduct preliminary inquiries. Further action may then be by alternative dispute resolution or full investigation.

Alternative Dispute Resolution

4.6 With simple and straightforward complaints, we adopt more flexible methods for readier resolution:

- Internal Complaint Handling Programme (INCH);
- Rendering Assistance/Clarification (RAC); and
- Mediation.

They offer organisations under complaint direct involvement in relatively more amicable resolution of the case. As necessary, they give the organisations the opportunity to conduct their own investigation and initiate direct dialogue with complainants under The Ombudsman's watching brief.

4.7 In December 2001,the Amendment Ordinance provides statutory status to these alternative dispute resolution methods, in use since 1996.

Fig.4.2 **Alternative dispute resolution**

Type	Method	Cases concluded in 2001/02
INCH	With the consent of complainants, simple complaints are referred to organisations for investigation and reply. The Ombudsman monitors the process and may intervene if necessary.	353
RAC	The Office conducts extensive preliminary inquiries and provides the complainants with explanation and clarification. The Ombudsman may suggest improvement on systemic problems.	1,214
Mediation	This is a voluntary process where complainants meet with representatives of the organisations concerned. Investigators from this Office act as neutral facilitators.	19

Full Investigation

4.8 Cases that are complex or involve issues of principle, serious maladministration, gross injustice, systemic flaws or procedural deficiencies will be subject to full investigation. The process involves extensive inquiries, evidence collection and consultation with our Advisers for their expertise.

4.9 The organisation under complaint is normally given an opportunity to comment and to make representation on my draft investigation report. Where appropriate, we recommend administrative remedies for improvement. Heads of organisations have a duty to report to me at regular intervals the progress of their implementation of my recommendations.

Code on Access to Information

4.10 In March 1995, Government introduced an administrative Code on Access to Information on a pilot basis in furtherance of open and accountable government. The Code was extended progressively to all Government bureaux and departments in December 1996.

4.11 Where an organisation fails to comply with the Code, an applicant may seek a review of the initial decision by the bureau or department in receipt of the request by lodging a complaint with The Ombudsman. Investigation of two complaints was completed during the reporting period.

On-going Community Perennial Problems

4.12 We have come across some community problems where solutions are not readily available.

4.13 An example relates to the transfer of

management rights to Owners' Corporations of public housing estates with mixed ownership, i.e. Home Ownership blocks co-existing with public rental flats. The Housing Department, as the owner of the rental flats, holds the largest number of shares and its interests may not always tally with those of individual owners. Some Home Ownership estates are governed by different deeds of mutual convenant or come off the ground in different phases. These situations generate management problems and often lead to disputes and complaints.

4.14 The problems range from provision of offices for Owners' Corporations to the operation of accumulated management funds for estates. The determination of management and supervision fees, demarcation of lot boundaries for Owners' Corporations and use and payment for facilities are typical causes for complaint. Misunderstanding and mistrust breed among parties involved and make for animosity, rather than neighbourliness. It would seem that the Housing Department had not anticipated such problems when drawing up deeds of mutual convenant or expediting the formation of Owners' Corporations. These problems will persist unless the Housing Authority and the Housing Department revamp the policies for :

- joint management of Home Ownership blocks and public rental flats; and
- common deeds of mutual convenant for different Home Ownership blocks.

4.15 Seepage is yet another perennial problem. Difficulties arise over the detection of the causes of seepage. Complaints often result from misconception, or even confusion, over the roles of the departments concerned. The three departments -- Food and Environmental Hygiene, Water Supplies and Buildings -- have their specific role at different stages of the problem. Invariably, they do what they can. However, members of the public are often not aware of (or not willing to accept) the division and limitation of their responsibilities : readily and regrettably, they form the impression that the departments are "passing the buck". While we try to ensure effective inter-departmental co-ordination, I must emphasise that property owners themselves have a primary responsibility to look after their own premises. Mutual co-operation among neighbours, in my view, is as important as assistance from Government.